Supreme Court, U.S.
FILED
03-947 DEC 29 2003
OFFICE OF THE CLERK

(1)

IN THE

SUPREME COURT OF THE UNITED STATES

Record No:

VICTOR ALAN MOTLEY,
Petitioner,

v.

COMMONWEALTH OF VIRGINIA,
ex rel. VIRGINIA STATE BAR,
Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO
THE SUPREME COURT OF VIRGINIA

PETITION FOR WRIT OF CERTIORARI

Victor Alan Motley, pro se
P.O. Box 25786
Richmond, VA 23260
(804) 329-6972

QUESTIONS PRESENTED

I. WHETHER HABEAS CORPUS IS THE PROPER WRIT OF INQUIRY PURSUANT TO THE U.S. CONSTITUTION, ART. I, SEC. 9; THE CONSTITUTION OF VIRGINIA, ART. I, SEC. 9 AND THE CODE OF VIRGINIA, SECTION 8.01-654 WHEN PETITIONER WAS GIVEN A PUBLIC REPRIMAND AND HIS LICENSE TO PRACTICE LAW WAS SUSPENDED BY THE VIRGINIA STATE BAR, DISCIPLINARY BOARD AND AFFIRMED BY ORDER OF THE SUPREME COURT OF VIRGINIA?

II. WHETHER MOTLEY WAS DENIED DUE PROCESS OF LAW AND EQUAL PROTECTION OF THE LAW IN VIOLATION OF THE U.S. CONSTITUTION, AMEND. XIV WHEN THE VIRGINIA CIRCUIT COURT AND VIRGINIA SUPREME COURT DENIED MOTLEY'S CONSTITUTIONAL RIGHT TO PETITION FOR HABEAS CORPUS BY DENYING JURISDICTION WITHOUT CAUSE?

PARTIES TO THE PROCEEDING

Victor A. Motley, pro se, Petitioner

Peter R. Messitt, Senior Assistant Attorney General

Counsel for Respondent-Appellee

TABLE OF CONTENTS

QUESTIONS PRESENTED	i.
PARTIES TO THE PROCEEDINGS	ii.
TABLE OF AUTHORITIES	iv.
OPINIONS BELOW	1.
JURISDICTION	1.
STATUTORY PROVISIONS INVOLVED	2.
STATEMENT OF THE CASE	3.
SUMMARY OF THE REASONS FOR GRANTING THE PETITION	5.
REASONS FOR GRANTING THE PETITION	6.
CONCLUSION	13.
APPENDIX	14.

TABLE OF AUTHORITIES

page

U.S. Constitution, Art. I, Sec. 9.....2,6,7,10,13.

U.S. Constitution, Amend. XIV.....2,10,13.

Jones v. Cunningham, 371 U.S. 236(1962).....7.

Lonchar v. Thomas, 517 U.S. 314(1966).....9.

Missouri, K&T. R. Co. v. Elliott, 22 S.Ct. 446,
184 U.S. 530,535 (1901).....10.

NAACP v. Button, 371 U.S. 415, 83 S.Ct. 328(1963).....8.

Scull v. Virginia ex rel. Committee on Law Reform and Racial
Activities,VA, 79 S.Ct. 838, 359 U.S. 344(1958).....11.

Victor A. Motley v. Virginia State Bar, Civil Action No.
3:01 CV042 (USDC, ED VA 2001).....8,11.

Constitution of Virginia, Art. I, Sec. 9.....2,6,10,13.

Constitution of Virginia, Art. I, Sec.11.....2,10.

Code of Virginia, Sec. 4.1-227.....11.

Code of Virginia, Sec. 8.01-654.....3,6,9,10,13.

Code of Virginia, Sec. 58.1-527.....12.

Exparte v. Rollins, 8 VA 314(1885).....9.

N.Y.- State ex rel. Henry L. v. Hawes, 174 Misc. 2d 929, 667
NYS 2d 212 (County Ct. 1997).....11.

Black's Law Dictionary.....7.

OPINIONS BELOW

The opinion of the Circuit Court of the City of Richmond, VA that: "A Writ of Habeas Corpus is not the proper remedy for relief".(Appendix p (a5). Refusal of the Petition for Appeal issued by the Supreme Court of VA (Appendix p.,(a3). Denial Upon a Petition for Rehearing issued by the Supreme Court of VA (Appendix p.(a2).

JURISDICTION

The Supreme Court of Virginia refused the petition for appeal on Sept. 3, 2003. The Supreme Court of Virginia denied the Petition for Rehearing on Nov. 7, 2003.

Jurisdiction in this action is to redetermine whether the courts of competent jurisdiction of the State of Virginia had jurisdiction to hear petitioner's Writs of Habeas Corpus filed therein on March 15, 2002.

Appeal, by Writ of Certiorari is authorized pursuant to 28 USCA, Sec. 1257, where the validity of a treaty or statute of the United States is drawn into question or where the validity of a State statute is drawn in question on the grounds of its

being repugnant to the Constitution, treaties or laws of the United States, or where any title, right, privilege or immunity is specially set up or claimed under the Constitution, treaties or statutes of, or commission held or authority exercised under, the United States.

Here the Supreme Court of Virginia is denying jurisdiction to Motley's United States Constitutional privilege to the Writ of Habeas Corpus.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The privilege of the writ of Habeas Corpus shall not be suspended, unless when in case of rebellion or invasion, the public safety may require it. U.S. Constitution, Art. I, Sec. 9.

No person shall ...be deprived of life, liberty or property without Due Process of Law. U.S. Constitution, Amend. XIV; Constitution of Virginia, Art. I, Sec. 11.

The privilege of the Writ of Habeas Corpus shall not be suspended unless when, in case of invasion or rebellion, the public safety may require.Constitution of Virginia, Art. I, Sec.9

A Writ of Habeas Corpus ad Subjectendem shall be granted forthwith by any Circuit Court, to any person who shall apply for the same by petition, showing by affidavits or other undue probable cause to believe that he is detained without lawful authority. Code of Virginia, Sec. 8.01-654.

Any Order of a Circuit Court denying a petition for writ of Habeas Corpus shall include findings of fact and conclusions of law. The Order shall identify the substance of the claims asserted in the petition and state the specific reasons for denial of each claim. An Order shall not deny the petition without explanation. Code of Virginia, Sec. 8.01-654(B)(5).

STATEMENT OF THE CASE

Motley was given a Public Reprimand by Order of the Supreme Court of Virginia affirming the findings of the Virginia State Bar , Third District Committee in Supreme Court, Record No. 000392 effective Nov. 30, 2000.

Motley was given a Public Reprimand by Order of the

Supreme Court of Virginia affirming the findings of the Virginia State Bar, Third District Committee in Supreme Court, Record No. 0001306 effective Nov. 30, 2000.

Motley's license to practice law was Suspended by Order of the Supreme Court of Virginia affirming the findings of the Virginia State Bar, Disciplinary Board in Supreme Court, Record No. 000417 effective Nov. 30, 2000.

As long as Motley's license to practice law is suspended, Motley is being restrained/detained of his liberty to use his state issued license to practice law. As long as the public reprimands remain on Motley's record, Motley is being restrained/detained from fullness of individual existence and freedom of unwarranted accusal and public display regarding his fitness to practice law.

Three (3) Habeas Corpus Petitions were filed March 15, 2002 in the Circuit Court of the City of Richmond, Virginia, Case No: LP-642; LP-653 and LP-654, which have been combined for this appeal, were DENIED as "not the proper remedy for relief", by the Circuit Court of the City of Richmond, VA on Feb. 4, 2003. (Appendix p.a5)

The Public Reprimands and License Suspension by the Virginia State Bar, Disciplinary Board as affirmed by the Supreme Court of Virginia still remain in effect against Motley and is a restraint/detention on Motley's ability to carry on business as an attorney licensed by the State of Virginia.

Motley waived no rights.

I. SUMMARY OF THE REASONS FOR GRANTING THE PETITION

I The constitutional privilege of the right to Habeas Corpus shall not be suspended. The Circuit Court of the City of Richmond and the Supreme Court of Virginia had original jurisdiction to hear Motley's Petitions for Writ of Habeas Corpus.

II The Circuit Court of the City of Richmond, VA and the Supreme Court of Virginia by denying jurisdiction to hear Motley's Petitions for Writs of Habeas Corpus violated Motley's Due Process and Equal Protection of the Law, Rights.

REASONS FOR GRANTING THE PETITION

PETITIONER HAS SET FORTH COMPELLING REASONS FOR THE GRANTING OF THIS WRIT OF CERTIORARI.

I. The Habeas Corpus jurisdictional statute implements the constitutional command that the Writ of Habeas Corpus be made available.

The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in case of invasion or rebellion, the public safety may require it. U.S. Constitution, Art. I, Sec. 9; Constitution of Virginia, Art. I, Sec. 9.

The Circuit Courts and the Supreme Court of Virginia have original jurisdiction to grant the Writ of Habeas Corpus. Constitution of Virginia, Art. I, Sec. 9.

A Writ of Habeas Corpus Ad Subjectendem shall be granted forthwith by any Circuit Court, to any person who shall apply for the same by petition, showing by affidavits or other undue probable cause to believe that he is detained without lawful authority. Code of Virginia, Sec. 8.01-654.

The Habeas Corpus jurisdictional statute implements the constitutional command that the Writ of Habeas Corpus be

made available. U.S. Constitution, Art. I, Sec. 9. While limiting its availability to those "in custody" the statute does not attempt to mark the boundaries of "custody" nor in any way other than by use of that word attempt to limit the situations in which the Writ can be used. It is not now and has never been a static, narrow, formalistic remedy; its scope has grown to achieve its grand purpose - the protection of individuals against erosion of their right to be free from wrongful restraints upon their liberty. Jones v. Cunningham, 371 U.S. 236,243 (1962).

The only applicable limitation in the language of the U.S. Constitution, Art. I, Sec. 9 on the writ of Habeas Corpus would be whether Motley is being restrained/detained. Restraint, is defined as: "Freedom of conscience. Right to carry on business. Fullness of individual existence. Freedom except as justly imposed by law" Black's Law Dictionary. Detain, is defined as: "To check, to delay, to hinder, to hold, or keep in custody, to stay, to stop". Black's Law Dictionary. Conviction, is defined as: "in legal parlance, it often denotes the final judgment of the court". Black's Law Dictionary.

The Writ was recognized as a proper remedy even though the restraint is something less than close physical confinement. Jones v. Cunningham, 371 U.S. 236,238(1962).

State may not, under guise of prohibiting professional misconduct, ignore Constitutional Rights. NAACP v. Button, 371 U.S. 415, 83 S. Ct. 328 (1963).

Alternatively, to rule that the order of the Supreme Court of Virginia affirming the findings of the Virginia State Bar, Disciplinary Board is not a order from a "Court of Competent Jurisdiction" as was found in Victor A. Motley v Joseph A. Condo and Virginia State Bar, Civil Action Nos.: 3:01CV040; 3:01CV 041; 3:01CV042 (USDC ED VA 2001)(Appendix p.a1); thus not an action reviewable by the Great Writ of Habeas Corpus would be to allow the taking of a business license by a committee or board, appointed by Bar Counsel as opposed to appointment by the legislature as judges are, and having taken no oath to uphold the Constitution and Laws of the United States and the Commonwealth. The Virginia General Assembly has not given the Boards and Committees of the Virginia State Bar the authority to act as judges.

Habeas corpus is the appropriate remedy where a party complaining is detained by an Order or process of a court which is without jurisdiction in the case. The want of jurisdiction may arise ... from a judgment or order of a court

having no authority to make the order or jurisdiction to pronounce the judgment. Exparte v. Rollins, 80 VA 314(1885).

To deny jurisdiction is to allow the reprimand and suspension of a business license by the Virginia State Bar without affording the licensee a day in a court of competent jurisdiction. "The Great Writ of Habeas Corpus... reveals... its most basic purpose, avoiding serious abuse of power by a government, say a king's imprisonment of an individual without referring the matter to a court. Dismissal of a first... habeas corpus petition is a particularly serious matter, for that dismissal denies the petitioner the protection of the Great Writ entirely, risking injury to an important interest in human liberty. Lonchar v. Thomas, 517 U.S. 314(1966).

Jurisdiction is the bases of Due Process, the right to be heard when being restrained/detained without lawful authority. "Lawful Authority" a criteria for Habeas Corpus, will never be heard on the merits without the granting of jurisdiction.

In denying jurisdiction, the Circuit court and the Supreme Court of Virginia ignored Code of Virginia, Sec. 654(B)(5) by making no findings of fact and conclusions of law nor stating the specific reasons for denying jurisdiction.

CONCLUSION

The fact that a state court in deciding a federal question erroneously decided that no federal question exists does not however, preclude a review of its decision by the Supreme Court. U.S. v. Missouri, K&T. R. Co. v. Elliott, MO., 22 S. Ct. 446, 184 U.S. 530(1901).

Jurisdiction is needed to determine jurisdiction to hear the Constitutional Right to Habeas Corpus.

II. To deny petitioner access to Habeas Corpus relief would deny him protection of his liberty.

A. No person shall...be deprived of life, liberty or property without Due Process of Law. U.S. Constitution, Amend. XIV; Constitution of Virginia, Art. I, Sec. 11.

Jurisdiction is the only issue; the right to be heard pursuant to the U.S. Constitution, Art. I, Sec. 9; the Constitution of Virginia, Art. I, Sec. 9; and the Code of Virginia, Sec. 8.01-654. To deny jurisdiction is to deny Due Process. Without the granting of jurisdiction, Motley will be denied access to the courts to challenge an Order of the Supreme Court of Virginia which Judge Williams of the United States District Court, for the Eastern District of Virginia has ruled is

not an Order from a Court of Competent Jurisdiction. Victor A. Motley v. Joseph A. Condo and Virginia State Bar, Civil Action Nos., 3:01CV 040; 3:01CV041; 3:01CV042(2001)(Appendix p.a1).

To deny petitioner access to Habeas Corpus relief would deny him or her protection of his or her liberty. N.Y. - State ex rel Henry L. v. Hawes, 174 Misc. 2d 929, 667 NYS 2d 212(County Ct. 1997).

Review by the United States Supreme Court of a decision of a state court is authorized if it is claimed that a state has, in violation of the Federal Constitution, deprived petitioner of life, liberty or property, without Due Process of law, or is attempting to do so. Scull v. Commonwealth of VA ex rel. Committee on Law Reform and Racial Activities, VA, 79 S. Ct. 838, 359 U.S. 344(1958).

Attached as Appendix (a24) is a prime example of the character of bar complaint reviews Motley has received from the Virginia State Bar which exemplifies the need for judicial review by a court of competent jurisdiction.

B. Before a Alcohol Beverage Commission licensee's license can be suspended, the licensee is afforded a hearing in a court of original jurisdiction. Code of Virginia, Sec. 4.1-227.

Before the state can attach a Virginia Income Tax Return, the attachee has the right to petition for Judicial Review in a court of original jurisdiction. Code of Virginia, Sec. 58.1-527.

Before a drivers license, which is a privilege and not a right, can be suspended or a offense placed on the driving record, the licensee is afforded a hearing in a court of original jurisdiction.

A Virginia State Bar licensee, an officer of the court, has no right to be heard by a court of original jurisdiction, before his license is restrained.

As long as Motley's license to practice law is suspended, Motley is being restrained/detained of his liberty to use his state issued license to practice law.

As long as the public reprimands remain on Motley's record, Motley is being restrained/detained from fullness of individual existence and freedom of unwarranted accusal and public display regarding his fitness to practice law.

Some State of Virginia licensee's are afforded more Due Process protection than other State Licensee's.

Motley was afforded no hearing by a court of original jurisdiction before the public reprimands and suspension was placed against his license to practice law.

Motley waived no rights.

CONCLUSION

The allegations of a denial of Due Process and Equal protection present a judicable constitutional cause of action upon which appellants are entitled to a trial and a decision. The right asserted is within the reach of judicial protection under the U.S. Constitution, Amend. XIV.

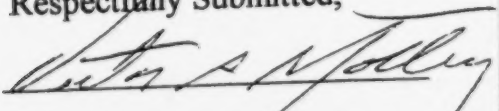
CONCLUSION

The denial of the Appeal by the Supreme Court of Virginia is a suspension of Motley's privilege to Habeas Corpus review as prescribed by the U.S. Constitution, Art. I, Sec. 9; the Constitution of Virginia, Art. I, Sec. 9 as well as Motley's forthright grant of review as prescribed by the Code of Virginia, Sec. 8.01-654.

Denial of the Appeal by the Supreme Court of Virginia is a Denial of Motley's Due Process and Equal Protection Rights pursuant to the U.S. Constitution, Amend. XIV.

Wherefore petitioner prays that certiorari be GRANTED.

Respectfully Submitted,



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APPENDIX

FINAL ORDER- U.S. District Court(ED VA 2001).....a1.

Denial of Petition for Rehearing, VA Supreme Court.....a3.

Denial of Petition for appeal, VA Supreme Court.....a4.

Order denying Motion to Reconsider, Richmond Cir. Ct.....a5.

Order Denying jurisdiction of writs of Habeas Corpus,
Richmond Circuit Court.....a6.

Petitions for Writ of Habeas Corpus filed in the Richmond
Circuit Court.....a7.

Letter to Chief judge Hassell with enclosures, regarding the
character of Motley's complaint reviews by the VSB...a25.

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF VIRGINIA

Richmond Division

VICTOR A. MOTLEY,

Petitioner

v. Civil Action Number 3:01CV41

JOSEPH A. CONDO and

VIRGINIA STATE BAR,

Respondents.

FINAL ORDER

This matter is before the Court on a petition for writ of habeas corpus filed by petitioner. He seeks relief from an Order entered by the Virginia Supreme Court in Record No. 000417 which purportedly affirmed an order of the Virginia State Bar Disciplinary Board upholding findings upon which the petitioner's license to practice law was suspended for eighteen months.(1) Petitioner does not allege that he is "in custody in violation of the Constitution or laws or treaties of the United States" as required in order to seek relief pursuant to 28 U.S.C. Sec. 2254. Petitioner claims only that the decision of the Virginia Supreme Court is "a restraint on petitioner's liberty as defined in Jones v. Cunningham, 371 U.S. 236(1963)." Recently, the United States Supreme Court

stated that although the writ of habeas corpus demands "application of basic constitutional doctrines of fairness (citing Jones v. Cunningham)," it also stated that the writ "demands...conviction by a court of competent jurisdiction (citations omitted)." Lonchar v. Thomas, 517 U.S. 314,322 (1996). Since the petitioner does not allege a conviction by a court of competent jurisdiction, this petition is DISMISSED FOR LACK OF JURISDICTION.

Petitioner is advised that he has the right to appeal the decision of the Court. Should he wish to do so, written notice of appeal must be filed with the Clerk of the Court within thirty (30) days of the date of entry hereof. Failure to file a timely notice of appeal may result in the right to appeal.

It is so ORDERED.

Let the Clerk send a copy of this Order to all counsel of record and to Mr. Motley.

Jan. 23, 2001 _____

DATE SENIOR U.S. DISTRICT JUDGE

---

1. Two similar petitions were filed on the same date, each also seeking relief from orders issued by the Virginia Supreme Court, both of which issued a public reprimand, in Records

Number 000392 and Number 001306. Those petitions were assigned Civil action Numbers 3:01CV040 and 3:01CV042 respectively.

VIRGINIA

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Friday the 7th day of November, 2003.

Victor Alan Motley, Appellant,

against Record No. 030625
Circuit Court Nos. LP-642,
LP-653 and LP-654

Virginia State Bar, Appellee.

Upon a Petition for Rehearing

On consideration of the petition of the appellant to set aside the judgment rendered herein on the 3rd day of September, 2003 and grant a rehearing thereof, the prayer of the said petition is denied.

A copy,

Teste:

Clerk

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Wednesday the 3rd day of September, 2003.

Victor Alan Motley, Appellant,

against Record No. 030625

Circuit Court Nos. LP-642

LP-653 and LP-654

Virginia State Bar, Appellee.

From the Circuit Court of the City of Richmond

Upon review of the record in this case and consideration of the argument submitted in support of and in opposition to the granting of an appeal, the Court is of opinion there is no reversible error in the judgment complained of. Accordingly,

the Court refuses the petition for appeal.

A Copy,

Teste:

Patricia H. Krueger, Clerk

By:

Deputy Clerk

Virginia:

In the Circuit Court of the City of Richmond, John Marshall Courts Building

VICTOR A. MOTLEY,

Petitioner

v. Case No. LP-642, LP-653 & LP-654

MICHAEL GLASSER, PRESIDENT

VIRGINIA STATE BAR,

Respondent

ORDER

Petitioner filed, pro se, a Motion to reconsider in the above captioned matters on February 12, 2003.

Upon mature consideration of the Petitioner's pro se motion and review of the abovestyled case numbers, the Court is directed to send a copy of this Order to the Petitioner.

the Clerk of Court is directed to send a copy of this Order to the Petitioner.

February 18, 2003 Enter:_____

Walter W. Stout. III, Judge

Virginia:

In the Circuit Court of the City of Richmond, John Marshall Courts Building

VICTOR A. MOTLEY,

Petitioner

v. Case No. LP-642, LP-653 & LP-654

MICHAEL GLASSER, PRESIDENT

VIRGINIA STATE BAR

Respondent

ORDER

Petitioner filed, pro se, a petition for Writ of Habeas Corpus in the above captioned matters on March 15, 2002.

Upon mature consideration of the Petitioner's pro se Motion and review of the abovestyled case numbers, the Court this day orders Petitioner's Motion hereby DENIED. A writ of Habeas Corpus is not the proper remedy for relief.

The Clerk of Court is directed to send a copy of this Order to the Petitioner.

February 4, 2003 Enter_____

Walter W. Stout, III, Judge

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF RICHMOND

VICTOR A. MOTLEY

VSB NO: 21711

v.

MICHAEL GLASSER

President

VIRGINIA STATE BAR

PETITION FOR WRIT OF HABEAS CORPUS

A. VIRGINIA STATE BAR HEARING

1. The Order for which petitioner seeks relief was rendered by:

Virginia Supreme Court, record No: 00417

2. The Virginia Supreme Court if AFFIRMING the Order of the Virginia State Bar, Disciplinary Board upon which petitioner's license to practice law was SUSPENDED for eighteen months.

3. Petitioner denied the allegations. Hearing was held before the VSB Disciplinary Board.

4. Petitioner appeared before the VSB Disciplinary Board and Virginia Supreme Court; represented by Roger L. Gregory of Wilder & Gregory, 707 E. Main Street, 10th Floor, Richmond, VA 23219 (804)643-8401.

5. The findings of the VSB Disciplinary Board were appealed to the Virginia Supreme Court.

6. The issues on appeal were:

a. The Disciplinary Board erred in denying appellant's

Motion for Continuance after Rebecca Grey, a party to the transaction, did not appear pursuant to a witness subpoena and a finding that there was no evidence that her testimony would be material.

b. The Disciplinary Board erred in denying petitioner's Motion for Refusal of Vice Chair Henry P. Curtis, Jr. and member John A. Dezio on the grounds of their prior involvement in matters related to petitioner that were inadmissible and prejudicial.

c. The Disciplinary Board erred in denying petitioner's Motion to Dismiss the charges on grounds that the certification determination was made on July 17, 1998 but was not served on petitioner until June 25, 1999 in violation of petitioner's Due Process rights.

d. The Disciplinary Board erred in denying petitioner's Motion to Dismiss on grounds that the investigation of his trust account violated petitioner's Due Process rights and Equal Protection of Law under the 14th Amendment of the U.S. Constitution.

e. The Disciplinary Board erred in overruling petitioner's objections that Bar Counsel's exhibits T [redacted] U were obtained in violation of petitioner's Due Process and Equal Protection Rights.

f. The Disciplinary Board erred in finding petitioner's conduct violated DR6-101(A)(1) because there was no evidence that petitioner's conduct constituted incompetence.

g. Whether the Virginia Supreme Court erred in finding that the Note "subjected Davis to the danger of double liability if the Note found its way into the hands of the holder in due course" is a finding based on speculation and a presumption of fraud in violation of Barnes v. Quarries, Inc., 204 VA 414, 132 SE2d 395(1963); WTVR Radio-TV v. Virginia Beach, 216 VA 892, 223 SE2d 895(1976).

h. There was no evidence that petitioner's conduct violated DR6-101(C) in that there was no evidence petitioner's failed to act promptly in rendering legal services.

i. There was no evidence petitioner violated DR6-101(C) in that there was no evidence petitioner failed to keep his client reasonably informed.

j. There was insufficient evidence petitioner violated DR9-102(A)(1)(2) because there was insufficient evidence petitioner failed to deposit funds belonging to his clients in his Trust Account.

k. There was insufficient evidence petitioner violated DR9-102(B)(3) because there was insufficient evidence

petitioner failed to preserve the identity of funds or misappropriated any client's funds or caused any client to suffer any financial loss.

l. There was insufficient evidence petitioner violated DR9-103(A)(1)(2)(3) that petitioner failed to maintain minimum accounting records.

m. The Disciplinary Board failed to consider mitigating circumstances in determining petitioner's sanction.

n. The Disciplinary Board erred in that petitioner's SUSPENSION is excessive, not supported by the evidence and violated petitioner's Due Process and Equal Protection Rights.

B. HABEAS CORPUS

7. No other petition for Habeas Corpus has been filed in a court of competent jurisdiction.

C. OTHER PETITIONS, MOTIONS OR APPLICATIONS

8. A petition was filed in the U.S. District Court for the Eastern District of Virginia, Civil action No. 3:01CV041 which was denied for Lack of Jurisdiction.

D. PRESENT PETITION

9. The grounds for the petition is that the VSB Disciplinary Board erred in denying petitioner's Motion for Continuance, Motion to Rescue, violated petitioner's Due Process and Equal

Protection Rights and that the evidence was insufficient in fact and law to sustain a violation of the Code of Professional Responsibility.

10. The alleged grounds were raised before the VSB Disciplinary Board and the Virginia Supreme Court. The Virginia Supreme Court, however is a court of review. No court of competent jurisdiction ha adjudicated the facts.

LIBERTY is defined: "Freedom from all restraints except as are justly imposed by law. freedom of conscience. Right to carry on business. Fullness of individual existence." Black's Law Dictionary.

PROPERTY is defined: "Ownership, the unrestricted and exclusive right to a thing... to possess it, to use it and exclude everyone else from interfering with it. Black's Law Dictionary. A Bar License once conferred is a property right acquired by authority of law.

U.S. Constitution, Amendments 5 and 14: "Nor shall any State deprive any person of life, liberty or property without Due Process of Law."

Constitution of Virginia, Art. I, sec. 11: "No person shall be deprived of his life, liberty or property without due process of law..." "In controversies respecting property and in suits between man and man... trial by jury is preferred, and ought to

be held sacred."

"A person is entitled to notice and opportunity to be heard before an impartial tribunal, before any binding order can be made affecting his rights to property." Graham v. Mitchell, 529 F. Supp. 622(E.D. VA1982).

Ordinances not providing for judicial review dealing with granting of license, held invalid." Assaid v. City of Roanoke, 179 VA 47, 18 SE2d 287(1942).

The Virginia Supreme Court affirming the findings of the VSB Disciplinary Board is a restraint on petitioner's liberty as defined in Jones v. Cunningham, 371 U.S. 236,238, 83 S.CT. 373(4th Cir. 1963).

The Virginia State Bar's suspension of the license to practice law, unless reviewed by a court of competent jurisdiction, is a denial of due process.

11. The grounds for the Writ of Habeas Corpus are now being raised because petitioner has exhausted his administrative remedies.

_____

Victor A. Motley, pro se

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STATE OF VIRGINIA

CITY OF RICHMOND, TO WIT:

The foregoing was subscribed, sworn, and acknowledged before me a Notary Public in and for the City of Richmond, State of Virginia by Victor A. Motley this 15th day of March, 2002.

My Commission expires 6/30/2003 _____

Notary Public

VIRGINIA

IN THE CIRCUIT COURT OF THE CITY OF RICHMOND

VICTOR A. MOTLEY

VSB NO: 21711

v.

MICHAEL GLASSER

President

VIRGINIA STATE BAR

PETITION FOR WRIT OF HABEAS CORPUS

A. VIRGINIA STATE BAR HEARING

1. The Order for which petitioner seeks relief was rendered by: Virginia Supreme Court, Record No.: 0001306

2. The Virginia Supreme Court in AFFIRMING the Order of the Virginia State Bar, Disciplinary Board upholding the findings of the Virginia State Bar, Third District Committee upon which petitioner was given a Public Reprimand.

3. Petitioner denied the allegations. Hearing was held before the VSB, Third District Committee.

4. Petitioner appeared before the VSB, Third District Committee, VSB, Disciplinary Board and the Virginia Supreme Court, pro se.

5. The findings of the VSB, Third District Committee were appealed to the VSB, Disciplinary Board which was appealed to the Virginia Supreme Court.

6. The issues on appeal were:

a. Whether petitioner was denied Due Process when the complaint was not signed by the complainant.

b. Whether the VSB had jurisdiction to hear the complaint when Complainant was engaged in the Unauthorized Practice of Law.

c. Whether the VSB had probable cause to investigate the complaint.

d. Whether the Order of the Supreme Court is contrary to the law and the evidence when petitioner had no duty to grantor after the payment of the proceeds to the Special Commissioner as prescribed by Code of Virginia, Sec. 8.01-102.

e. Whether the VSB erred in introducing VSB Docket No. 86-146 which contained no facts in violation of the Rules of Supreme Court of Virginia, Pt. 6, Sec. IV, Para. 13(B)(6)(C).

f. Whether the VSB erred in it's use of petitioner's prior record, VSB Docket No. 89-031-0495 and VSB Docket No. 91-031-0795, when Bar Counsel's assertions of fact are not supported by the record and after the presentence report was challenged in violation of U.S. v. Burke, 80 F3rd 314(8th Cir. 1996).

B. HABEAS CORPUS

7. NO OTHER PETITION FOR HABEAS CORPUS HAS BEEN FILED IN A COURT OF COMPETENT JURISDICTION.

C. OTHER PETITIONS, MOTIONS OR APPLICATIONS

8. A petition was filed in the U.S. District Court for the Eastern District of Virginia, Civil Action No.: 3:01CV042 which was dismissed for Lack of Jurisdiction.

9. The grounds of this petition is that the VSB, Third District Committee had no jurisdiction to hear the complaint. Petitioner was denied Due Process of Law. Upon the facts and evidence known to the VSB, they had no probable cause to conduct a hearing. Whether petitioner owed a duty to complainant pursuant to Code of Virginia, Sec. 8.01-102. Whether petitioner was prejudiced by the VSB's statements and use of petitioner's prior disciplinary record after the presentence report was challenged.

10. The alleged grounds were raised before the VSB, Third District Committee, the VSB, Disciplinary Board and the Virginia Supreme Court. The Virginia Supreme Court, however, is a court of review. No court of competent jurisdiction has adjudicated the facts.

LIBERTY is defined: "Freedom from all restraints except as are justly imposed by law. Freedom of conscience. Right to carry on business. Fullness of individual existence." Black's Law Dictionary.

PROPERTY is defined: "Ownership, the unrestricted and exclusive right to a thing...to possess it, to use it and to exclude everyone else from interfering with it." Black's Law Dictionary. A bar license once conferred is a property right acquired by authority of law. U.S. Constitution, Amend. 5 & 14: "Nor shall any state deprive any person of life, liberty or property without Due Process of Law." Constitution of Virginia, Art. I, Sec. 11: "No person shall be deprived of his life, liberty or property without Due Process of Law...In controversies respecting property and in suits between man and man... trial by jury is preferred, and ought to be held sacred." "A person is entitled to notice and opportunity to be heard before an impartial tribunal, before any binding order can be made affecting his rights to property." Graham v. Mitchell, 529 F.Supp. 622(E.D. VA 1982).

"Ordinances not providing for judicial review dealing with granting of license, held invalid." Assaid v. City of Roanoke, 179 VA 47; 18 SE2d 287(1942).

The Virginia Supreme Court's affirming the Order of the VSB, Disciplinary Boards is a restraint on petitioner's liberty as defined in Jones v. Cunningham, 371 US 236,238; 83 S. Ct. 373(4th Cir. 1963).

The Virginia State Bar's use of a public reprimand against

petitioner is a Restraint on petitioner's liberty which unless reviewed by a court of competent jurisdiction is a denial of Due Process.

11. The grounds for Writ are being raised now because petitioner has exhausted his administrative remedies.

_____

Victor A. Motley, pro se

Victor A. Motley
P.O. Box 25786
Richmond, VA 23260
(804)329-6972

STATE OF VIRGINIA:
CITY OF RICHMOND, to-wit:

The foregoing was subscribed, sworn, and acknowledged before me a Notary Public in and for the City of Richmond, State of Virginia by Victor A. Motley this 15th day of March, 2002.

My Commission expires: 6/30/2003

_____

Notary Public

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF RICHMOND

VICTOR A. MOTLEY

VSB NO: 21711

v.

MICHAEL GLASSER

President

VIRGINIA STATE BAR

PETITION FOR WRIT OF HABEAS CORPUS

A. VIRGINIA STATE BAR HEARING

1. The Order for which petitioner seeks relief was rendered by:

Virginia Supreme Court, Record No.: 000392

2. The Virginia Supreme Court in AFFIRMING the Order of the Virginia State Bar, Disciplinary Board upholding the findings of the Virginia State Bar, Third District Committee upon which petitioner was given a Public Reprimand.

3. Petitioner denied the allegations. Hearing was held before the VSB Third District Committee.

4. Petitioner appeared before the VSB, Third District Committee, VSB, Disciplinary Board and the Virginia Supreme

Court, pro se.

5. The findings of the VSB, Third District Committee were appealed to the VSB, Disciplinary Board which was appealed to the Virginia Supreme Court.

6. The issues on appeal were:

a. Whether DR 6-101 is void for vagueness when "reasonable notice" has never been defined to mean proof of receipt of the notice or proof that the notice was remembered and comprehended by the recipient.

b. Whether the findings of the VSB, Third District Committee is contrary to the law and the evidence when claimant's testimony is conflicting and not collaborated as prescribed by Wilshire v. Pollard, 220 VA 678; 261 SE2d 542(1980).

c. Whether the VSB erred in introducing VSB Docket#86-146 which contained no facts in violation of the Rules of Supreme Court of Virginia, Pt. 6, Sec. IV, Para. 13(B)(6)(c).

d. Whether the VSB erred in its use of petitioner's prior Disciplinary Record, VSB Docket #89-031-0495 in making assertions of fact that were not supported by the evidence after the presentence report was challenged in violation of U.S. v. Burke, 80 F3rd 314(8th Cir. 1996).

B. HABEAS CORPUS

7. No other petition for Habeas Corpus has been filed in a court of competent jurisdiction.

C. OTHER PETITIONS, MOTIONS OR APPLICATIONS

8. A petition was filed in the U.S. District Court for the Eastern District of Virginia Civil Action No.: 3:01CV040 which was dismissed for Lack of Jurisdiction.

9. The grounds for the petition is that the VSB, Third District Committee erred in finding that DR 6-101 was not void for vagueness as applied to the facts of this case. Whether the findings of the VSB, District Committee are contrary to the law and the evidence when complainant's testimony is conflicting, the evidence is not supported by the facts and complainant's testimony is not collaborated but conflicts with the physical evidence. Whether petitioner was prejudiced by Bar Counsel's statements regarding and use of petitioner's prior disciplinary record.

10. The alleged grounds were raised before the VSB, Third District Committee, VSB, Disciplinary Board and the Virginia Supreme Court. The Virginia Supreme Court, however, is a court of review. No court of competent jurisdiction has adjudicated the facts.

LIBERTY is defined: "Freedom from all restraints except as are justly imposed by law. freedom of conscience. Right to carry on business. Fullness of individual existence." Black's Law Dictionary.

PROPERTY is defined: "Ownership, the unrestricted and exclusive right to a thing... to possess it, to use it and to exclude everyone else from interfering with it". Black's Law Dictionary. A Bar License once conferred is a property right acquired by authority of law.

U.S. Constitution, Amendment 5 & 14: "Nor shall any State deprive any person of life, liberty or property without due process of law".

Constitution of Virginia, Art. I, Sec. 11: "No person shall be deprived of his life, liberty or property without due process of law..." "In controversies respecting property and in suits between man and man... trial by jury is preferred, and ought to be held sacred".

"A person is entitled to notice and opportunity to be heard before an impartial tribunal, before any binding order can be made affecting his rights to property". Graham v. Mitchell, 529 F.Supp. 622(E.D. VA1982).

Ordinances not providing for judicial review dealing with granting of license, held invalid. Assaid v. City of Roanoke,

179 VA 47; 18 SE2d 287(1942).

The Virginia Supreme Court affirming the findings of the VSB, Disciplinary Board is a restraint on petitioner's liberty as defined in Jones v. Cunningham, 371 U.S. 236,238; 83 S. Ct. 373(4th Cir. 1963).

The Virginia State Bar's use of a Public Reprimand against petitioner is a Restraint of petitioner's liberty, which unless reviewed by a court of competent jurisdiction is a denial of Due Process.

11. The grounds for this Writ of Habeas Corpus are now being raised because petitioner has exhausted his administrative remedies.

_____

Victor A. Motley, pro se

Victor A. Motley
P.O. Box 25786
Richmond, VA 23260
(804) 329-6972

STATE OF VIRGINIA
CITY OF RICHMOND, to wit:

The foregoing was subscribed, sworn and acknowledged before me a Notary Public for the City and State aforesaid by

Victor A. Motley this 15th day of March, 2002.

My Commission expires: 6/30/2002 _____

Notary Public

June 30, 2003

SUPREME COURT OF VIRGINIA

c/o Chief Judge Hassell

100 N. 9th Street

Richmond, VA 23219

RE: In the Matter of Victor Alan Motley

VSB Docket No. 03-032-1420

Dear Justice Hassell:

Enclosed please find a letter I received from the Virginia State Bar along with my response.

I write because I feel you should know the actions of your agency.

What troubles me most is that the Rules of Supreme Court of Virginia afford me no redress to such findings, and these conclusive findings will remain a part of my record with the Virginia State Bar, which could be an unjustified restraint on my future endeavors and liberty.

Thank you.

Respectfully,

Victor A. Motley

P.O. Box 25786

Richmond, VA 23260

(804)329-6972

cc. Office of the Attorney General

Virginia State Bar

Eighth and Main Building

707 East Main St., Suite 1500

Richmond, Virginia 23219-2800

(804)775-0500

June 26, 2003

PERSONAL AND CONFIDENTIAL

Bruce C. Landes

125 Buford Court

Richmond, VA 23235

Re: In the Matter of Victor Alan Motley

VSB Docket No. 03-032-1420

Dear Mr. Landes:

The following is in response to your complaint to the Virginia State Bar concerning the alleged unethical conduct of Victor Alan Motley.

The preliminary investigation conducted by the Virginia State Bar fails to reveal evidence that would support a finding of misconduct under the Virginia Code of Professional Responsibility. To assist you in your understanding, I submit the following analysis for your consideration.

In your complaint, you allege that your appeal to the Virginia Supreme Court was denied due to Mr. Motley's failure to perfect the appeal. While it appears that Mr. Motley did fail to perfect your appeal, such conduct is considered to be a mistake amounting to a single act of inadvertence or negligence, not normally punishable under the Virginia Rules of Professional Conduct. Mr. Motley's conduct does not rise to the level of a violation of the Virginia Rules of Professional Conduct.

In considering a finding of neglect by an attorney, the bar must consider the circumstances. Neglect involves indifference and a consistent failure to carry out the obligations which the lawyer has assumed to his client or a conscious disregard for the responsibility owed to the client. The concept of ordinary

negligence is different. Neglect usually involves more than a single act or omission. Neglect cannot be found if the acts or omissions complained of were inadvertent or the result of an error of judgment made in good faith. Picus v. Virginia State Bar, 232 VA 5,11; 348 SE2d 202(1986), citing ABA Comm. On Ethics and Professional Responsibility, Informal Op. 1273(1973).

I wish to also note that Mr. Motley's license to practice law was revoked by the State Bar Disciplinary Board on March 28, 2003, as a result of earlier complaints. Mr. Motley has appealed his revocation.

For reasons explained herein, the complaint against Mr. Motley must be dismissed under Part 6, Section IV, Paragraph 13.C.5.d of the Rules of the Supreme Court of Virginia, which states dismissal is appropriate where the evidence available could not reasonably be expected to support any allegation of Misconduct under a clear and convincing evidentiary standard.

Although I must dismiss your complaint, I do thank you for your time in bringing this matter to the attention of the Bar.

Very truly yours,

Linda Mallory Berry

Assistant Bar Counsel

LMB:lcf

cc. Victor Alan Motley, Respondent

Barbara S. Lanier, Clerk of the Disciplinary System

June 30, 2003

VIRGINIA STATE BAR

c/o Linda Mallory Berry

707 E. Main St., 15th Floor

Richmond, VA 23219

RE: In the Matter of Victor Alan Motley

VSB Docket No. 03-032-1420

Dear Ms. Mallory Berry:

With respect to your finding that: "your appeal to the Virginia Supreme Court was denied due to Motley's failure to perfect the appeal".

Would you please advise what facts your investigation revealed.

From my knowledge and investigation of the complaint:

1. Motley was never retained to do an appeal.

2. Said cause ended in a NONSUIT which is not a final judgment that can be appealed.

3. Complainant, Bruce Landes, was found to have filed a false insurance application which was the basis of his lawsuit and the basis of the nonsuit.

4. Complainant, Bruce Landes, employed Motley for about two (2) weeks after Motley's license to practice law was suspended. 11/30/2000

5. Co-counsel, Curtin Coleman's complaint by Bruce Landes was dismissed as well, but on different grounds, why? Thank you.

Respectfully,

Victor A. Motley
P.O. Box 25786
Richmond, VA 23260
(804)329-6972

cc. Supreme Court of Virginia
Office of the Attorney General

VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF CHESTERFIELD

BRUCE C. LANDES,

Plaintiff,

v. At Law No. CL98-1018

ERIE INSURANCE EXCHANGE,

Defendant.

ORDER OF NON-SUIT

Come today the plaintiffs, by counsel, on their motion for dismissal of action by non-suit pursuant to Sec. 8.01-380 of the Virginia Code (1950), as amended, and it appearing to the Court that there has been no counterclaim, cross-claim, or third-party claim arising out of the same transaction or occurrence and it appearing further that no prior non-suit has been taken in this cause of action, it is hereby ORDERED that the above styled action is hereby dismissed by non-suit.

The clerk is hereby ordered to forward a copy of this Order to counsel for all parties in this action.

Enter this 17th day of November, 2000.

_____

Circuit Judge

VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF CHESTERFIELD

BRUCE C. LANDES,

Plaintiff

v. At Law No. CL98-1018

ERIE INSURANCE EXCHANGE,

Defendant.

PLAINTIFFS' MOTION FOR NON-SUIT

Come today the plaintiffs, by counsel, pursuant to Sec. 8.01-380 of the Virginia Code (1950), as amended, and respectfully move this Court for entry of a dismissal by non-suit.

No counterclaim, cross-claim, or third-party claim has arisen out of this same transaction or occurrence and no prior non-suit has been taken in this cause of action.

WHEREFORE, the plaintiffs respectfully request entry of dismissal by Order of Non-Suit.

Respectfully submitted,

Bruce C. Landes and Dalene Landes

By Counsel

Victor A. Motley, Ltd.

2817 North Ave.

Richmond, VA 23222

(804)329-6972

and

Curtin R. Coleman(VSB 22666)

P.O. Box 423

Earlysville, VA 22936-0423

(804)978-1737

Counsel for Plaintiffs

By_____

Curtin R. Coleman

CERTIFICATE

I, hereby certify that true copies of the foregoing Motion and proposed Order of Non-Suit were transmitted via Federal Express this 14th day of November, 2000, to David W. Hearn, Esquire, sands, Anderson, Marks & Miller, 801 East Main Street, P.O. Box 1998, Richmond, VA 23218-1998.

_____

Curtin R. Coleman

VIRGINIA STATE BAR
Eighth and Main Building
707 East Main Street, Suite 1500
Richmond, VA 23219
(804) 775-0500

PERSONAL AND CONFIDENTIAL

July 8, 2003

Victor A. Motley, Esq.
P.O. Box 25786
Richmond, VA 23260

In the Matter of Victor Alan Motley
VSB Docket No. 03-032-1420

Dear Mr. Motley:

This matter was dismissed on June 26, 2003, and the file was closed. I have carefully read your letter of June 30, 2003, and it appears that the questions raised in your letter are moot.

Yours truly,

Linda Mallory Berry
Assistant Bar Counsel

cc: File of Victor Motley RE: 03-032-1420

July 9, 2003

SUPREME COURT OF VIRGINIA

c/o Chief Judge Hassell

100 N. 9th Street

Richmond, VA 23219

RE: In the Matter of

Victor Alan Motley

VSB Docket No.03-032-1420

Dear Justice Hassell:

Enclosed please find a response to my letter and inquiry with the Virginia State Bar regarding their disposition of the above referenced.

The response dated July 3, 2003 fortifies my concern of my State record with the Virginia State Bar which affords me no recourse or right to be heard.

Linda Mallory Berry's letter fails to address her conclusion that "Motley failed to perfect the appeal" when a nonsuit is not an appealable Final Order; nor does the letter address how one complaint filed against two attorneys, on the same matter, received two different conclusions with respect to each attorney.

ONE NATION UNDER GOD WITH LIBERTY AND

JUSTICE FOR ALL. If Ms. Berry's conclusion is wrong, I would like my record cleared. If I am receiving disparate treatment, I would like that addressed.

Respectfully,

Victor A. Motley

P.O. Box 25786

Richmond, VA 23260

(804)329-6972

cc. Office of the Attorney General